

Trustee's Third Accounting of Trust Assets and Petition for Its Approval; for Waiver of Future Accountings and for Allowance of Attorney's Fees and Costs

		JOYCE A. HENRY , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 05/01/12 – 04/30/14	
		Accounting - \$419,215.90	<p>Note: If further accountings are not dispensed with, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> Monday, 07/11/16 at 9:00 a.m. in Department 303 for the filing of the fourth account. <p>Pursuant to Local Rule 7.5 if the required accounting is filed 10 days prior to the hearing on the matter the status hearing will come off calendar and no appearance will be required.</p>
		Beginning POH - \$327,870.67	
		Ending POH - \$228,866.56	
Cont. from 100614		Trustee - not addressed	
<input type="checkbox"/>	Aff.Sub.Wit.	Attorney - \$3,927.00 (Per declaration and itemization, 4.55 attorney hours @ \$280/hr. and 17.6 paralegal hours @ \$140/hr.)	
<input checked="" type="checkbox"/>	Verified	Attorney costs - \$435.00 (certified copy and filing fees)	
<input type="checkbox"/>	Inventory	Petitioner states that settlement payments from AIGA are all deposited electronically into the blocked account. The Court has authorized these payments to be distributed to Petitioner to pay for beneficiary's expenses, including care-giving services provided by Petitioner. The authorized payments are electronically transferred from the blocked account to a checking account established by Petitioner in the name of the Trust. The court has not required Petitioner to account for the expenses paid on behalf of beneficiary with these funds, but has required Petitioner to file a bond in the amount of \$46,500.00. Petitioner, who is beneficiary's mother, has cared for beneficiary exclusively since the accident which occurred while beneficiary was a minor and left her permanently severely disabled. The Court has required Petitioner to provide a biennial accounting for the blocked account. This is the third accounting of those funds. No withdrawals above the monthly settlement payments are permitted without a court order. Petitioner therefore requests that future accountings of the blocked account be waived until such time as the Trust attorney's fees and costs necessitated by the accountings but will not in any way be detrimental to the Trust or the Trust beneficiary, because there will be no change in the requirement of court approval for all disbursements from the account.	
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Continued on Page 2

Reviewed by: JF
Reviewed on: 10/28/14
Updates:
Recommendation:
File 1 – Tyler

Petitioner states that on 05/03/12 the Court approved Petitioner's petition for the expenditure of \$53,652.00 for a new van to transport the Trust beneficiary. Petitioner delivered a cashier's check to David John of Driving Specialties, Ltd. on 05/14/12. Petitioner had been dealing with David John and this company for many years. Petitioner had no reason to believe that the van would not be delivered as promised. However, on 07/20/12, Petitioner had a conversation with David John and received an e-mail from him on 07/26/12 indicating that the van would not be delivered. Petitioner learned that there were 10 other individuals whose funds had been taken by David John in a similar manner. On 09/04/12, Petitioner submitted a claim to International Fidelity Insurance Company ("IFIC") the surety that issued the bond of David John on behalf of Driving Specialties, Ltd. Petitioner also filed an Investigative Complaint with the DMV. Petitioner also received correspondence from attorney Charles Sosa of the law firm representing IFIC indicating that the claims exceeded the amount of the bond and that IFIC would file an interpleader complaint if no agreement could be reached among all parties as to how the proceeds of the bond would be divided. Ultimately, the Interpleader Complaint was filed in Solano County. Petitioner, unsophisticated in litigation and most other legal matters, did not understand the meaning of being named a defendant in the action and did not believe she had to do anything further related to the litigation. Petitioner did not attempt to contact her attorney, Barrus and Roberts, P.C., nor any other attorney, regarding the theft of Trust funds by David John. Petitioner, Joyce Henry, had a default entered against her on 11/19/12. When attorney Roberts began preparing this Third Account, Petitioner relayed the details of this matter and provided him with all of the correspondence she had received, as well as her notes. In the meantime, in March 2013, David John applied the sum of \$3,000.00 as a down payment to facilitate Petitioner's purchase of a used 2011 Ford E350 van on 03/15/13. David John also indicated that he would make the payments on the van as they came due. Ultimately, in addition to the \$3,000.00 down payment, he has paid Petitioner an additional \$1,000.00 on 08/12/13 and \$500.00 each on 9/10/13 and 05/22/14 for a total of \$5,000.00. The monthly payments for the replacement van of \$521.52 began on 04/29/13. Petitioner also received a refund from the DMV in the amount of \$113.00. The contract for the replacement van was for a 6 year payout, with a total sum of \$37,549.44 ultimately due for the vehicle. Petitioner has been making the monthly payments on the replacement van from her own personal funds. On the accounting, since the money paid for the van authorized by the court was gone and no part of it was applied against the purchase of the replacement van, the book value shown is \$0.00. The current blue book value market value of the replacement van is estimated to be \$17,946.00. Petitioner apologizes to the court for her failure to contact her attorney, but truly believed that the actions filed in this matter would protect the Trust's interests to the fullest extent possible.

Bond is currently posted in the amount of \$46,500.00.

Petitioner prays for an order:

1. Settling and allowing the account and report and approving and confirming the acts of Petitioner and the Trust from 05/01/12 through 4/30/2014;
2. Authorizing and directing the Trustee to pay to Gregory J. Roberts the sum of \$3,927.00 for legal services and the sum of \$435.00 for costs advanced; and
3. Waiving future accountings of the blocked account until such time as the Trust terminates or the court otherwise orders.

Continued on Page 3

Attorney's Statement Regarding Repayment of Funds to Trust filed 10/22/14 includes a calculation and plan of restitution of funds misappropriated by David John, a Promissory Note, and a Deed of Trust with Assignment of Rents. The plan indicates that Trustee, Joyce Henry will continue making payments on the new van with her own funds (payments total \$37,549.44). According to the plan of restitution, there will be a balance remaining of \$10,989.56 after all payments on the new van are complete, but it is anticipated that the fair market value of the van will exceed that amount when the payments are complete. The promissory note is to be non-interest bearing, as the amounts still due to be paid on the new van include interest.

2 Harold P. Hanson (Estate)
Atty Markeson, Thomas A. (for Petitioner/Executor Frank Volpa)
Atty Berger, Bruce J. (for Sigma Chi Building Foundation)
Atty Hall, Christopher (for Sigma Chi Foundation)

Case No. 0596442

Petition for Instructions for Further Hearing

DOD: 7/27/1997		FRANK VOLPA , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Sigma Chi Foundation owes a filing fee of \$435.00 for the filing of their response. Note: The pleadings say that all interested parties submitted documents, however no documents were filed by Sigma Chi Foundation. It appears Sigma Chi appeared at the hearing but they have never paid a filing fee in this matter.
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	Inventory		
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	Objections		
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✓	Order		
	Aff. Posting		
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	FTB Notice		
<p>Petitioner states on 5/28/14 he filed a Petition for Instructions regarding a "Gift Agreement" he executed in January 2008. All interested parties submitted documents on their positions in the matter and the matter was heard on 7/14/14. The court ordered those interested parties to submit an order.</p> <p>Petitioner is informed that the parties have been unable to agree regarding the terms of the order.</p> <p>Order dated 9/19/14 reset the Petition for Instructions regarding the "Gift Agreement."</p> <p>In the Petition for Instructions Petitioner stated on October 9, 2007 he obtained an Order for Final Distribution. On December 4, 2007, the court modified the order nunc pro tunc to correct the serial number on two savings bonds.</p> <p>In pertinent part the disposition section of the 2007 order reads as follows: "To Sigma Chi Foundation, for scholarships for the Beta Delta Chapter of Sigma Chi . . ."</p> <p>In January 2008 Sigma Chi officials presented a "Gift Agreement" to the executor regarding the funds. Based on the letter (attached as Exhibit A) and directed by Raymond Love, Petitioner executed the agreement on behalf of the estate (copy of the agreement attached as Exhibit B). Petitioner is informed that since that time, and pursuant to the Gift Agreement, the funds delivered to Sigma Chi have been used only for members of the Beta Delta Chapter and have been used to fund academic scholarships to attend the University of Montana, and scholarships for Sigma Chi Foundation leadership training programs.</p> <p>Please see addition page</p>			

Reviewed by: KT

Reviewed on: 10/29/14

Updates:

Recommendation:

File 2 – Hanson

Petitioner is informed that a dispute exists between the Sigma Chi Foundation and the Sigma Chi Building Foundation (reportedly a Montana non-profit corporation which was authorized by resolution dated 4/14/14, of the Beta Delta Chapter of Sigma Chi Fraternity). The Sigma Chi Foundation alleges that the funds should only be used for academic scholarships to attend the University of Montana and not for leadership training or any other use.

Petitioner states he has no independent knowledge of whether the decedent intended that the funds be used only for the purposes of funding scholarships to the University of Montana, or whether the decedent's intent would allow for scholarships to attend Sigma Chi developed leadership and other such programs as well. The attorney who drafted the will, Ruth Ratzlaff, received the document attached as Exhibit C from Harold Hanson prior to her preparation of the will. The handwritten portion in the middle of the page appears to provide a bequest to the Sigma Chi Foundation for "an annual scholarship at Beta Delta Chapter in Missoula to be chosen by the Board of Governors." In addition, at the bottom of the page, Harold Hanson typed and wrote the following: "an annual Scholarship Fund, BETA DELTA CHAPTER OF SIGMA CHI, Missoula Mt to be chosen by the Board of Governors of Sigma Chi at 1714 Hinman ave. Evanston, ILL 60201."

Petitioner prays that the court either approve and confirm the execution of the Gift Agreement dated, January 23, 2008, or alternatively, that the court enter such other orders/instructions as the court deems appropriate.

Sigma Chi Building Foundation's Points and Authorities in Response to Executor's Petition for Instructions filed on 7/10/14. Sigma Chi Building Foundation concludes the use by Sigma Chi Foundation of the Hanson bequest for "educational programs" and "leadership training" goes against the intent of Mr. Hanson in establishing "a scholarship fund" for Beta Delta. Under the circumstances Sigma Chi Building Foundation respectfully requests the court order Sigma Chi Foundation to: (1) restrict the use of the Hanson bequest to scholarships to active members of Beta Delta to attend University of Montana, and to cease using the Hanson bequest for Sigma Chi Foundation-sponsored educational or leadership programs; (2) provide an accounting for all funds or other assets received as part of the Hanson bequest; and, (3) alternatively, respond to limited discovery requests propounded by SCBF in lieu of an accounting.

Declaration of James W. Thompson in Support of Sigma Chi Building Foundation's Points and Authorities filed on 7/10/14. Mr. Thompson states on 4/7/14, the active members of Beta Delta Chapter, resolved in writing to authorize Sigma Chi Building Foundation to act on Beta Delta's behalf with regard to all matters concerning the bequest from Harold P. Hanson, deceased, to the Beta Delta Chapter.

Neither Beta Delta nor Sigma Chi Building Foundation learned of Mr. Hanson's scholarship funds to Beta Delta until early 2014.

On 4/29/14 and on 5/16/14, on behalf of Sigma Chi Building Foundation, Mr. Thompson states he wrote Sigma Chi Foundation requesting the status of Mr. Hanson's gift of scholarship funds, and how those funds had been used. By letter dated 5/28/14 J. Ashley Woods, General Counsel for Sigma Chi Foundation, responded.

Mr. Thompson states he is informed and believes that Sigma Chi Foundation has yet to award any scholarships from Mr. Hanson's bequest. Mr. Thompson states he has made repeated requests to Sigma Chi Foundation to account for all funds received from Mr. Hanson's estate, all which have been declined.

Please see additional page

Dept. 303, 9:00 a.m. Monday, November 3, 2014

Sigma Chi Building Foundation's Further Points and Authorities in Response to Executor's Petition for Instructions filed on 10/20/14. Sigma Chi Building Foundation states both Sigma Chi Building Foundation and Sigma Chi Foundation submitted proposed orders, neither of which the court was inclined to sign, and, while thereafter some progress was made in negotiating a compromise order, the parties reached an impasse regarding Sigma Chi Foundation's accounting obligation.

As of 10/7/14, Sigma Chi Foundation has hired new counsel, who apparently aims to attack the heart of the court's earlier ruling by contending that Sigma Chi Building Foundation lacks standing to challenge the executor's agreement with Sigma Chi Foundation to use the Hansen bequest contrary to the wishes of the testator. Sigma Chi Foundation's contention is without merit, and by failing to challenge Sigma Chi Building Foundation's standing at the 7/14/14 hearing Sigma Chi Foundation effectively waived this issue in favor of Sigma Chi Building Foundation.

At this juncture, the issue properly before the court is the scope of the order as it relates to "transparency" and in effect, Sigma Chi Foundation's duty to account to Sigma Chi Building Foundation/Beta Delta.

The Declaration of Bruce J. Berger filed on 7/18/14 explains the differences in the proposed orders submitted after the 7/14/14 hearing. The parties were unable to negotiate a compromise order, despite their good faith efforts.

At this point, the court's guidance is needed to establish the extent to which Sigma Chi Foundation shall be held to account to its beneficiary with regard to the Hanson bequest.

Declaration of Bruce J. Berger filed on 7/18/14 states that on 7/17/14 he e-mailed J. Ashley Woods, an authorized officer of Sigma Chi Foundation a copy of an earlier version of Sigma Chi Building Foundation's proposed order. The idea was to obtain Mr. Woods' approval as to form. Later that day, Mr. Berger states he received from Mr. Woods a proposed alternative order which deleted without explanation portions of Sigma Chi Building Foundation's proposed order. Based on the deletions, it appears that Sigma Chi Foundation believes it has some wiggle room with regard to the use of the Hanson bequest for other than "scholarships," and that Sigma Chi Foundation takes issue with the provisions in Sigma Chi Building Foundation's proposed order requiring accounting by Sigma Chi Foundation to Sigma Chi Building Foundation with "transparency," and declaring null and void the March, 2008 Gift Agreement between the executor and Sigma Chi Foundation.

Mr. Berger states first he recalls, and his notes from the hearing reflect, the court's clearly stated expectation that Sigma Chi Foundation will account to Sigma Chi Building Foundation with "transparency." In order to address any ambiguity, Mr. Berger states he added some time parameters that he submits are entirely reasonable, given the fiduciary responsibility of Sigma Chi Foundation to Sigma Chi Building Foundation with regard to the Hanson bequest.

Second, Mr. Berger states he took the court's ruling to restrict the meaning of the word "scholarship" to its literal academic sense, to mean that the Hanson bequest can be used only for qualified applicants from the Beta Delta Chapter of Sigma Chi to obtain the advantages of a college education at the University of Montana and shall not be used for educational and/or leadership programs sponsored by Sigma Chi Foundation, and/or any other purpose.

Please see additional page

Declaration of Bruce J. Berger filed on 7/18/14 (continued):

Third, Mr. Berger states given the court's ruling restricting the meaning of the word "scholarship," the logical extension of that ruling is that the March, 2008 Gift Agreement, the entire purpose of which was to allow use of the Hanson bequest for other than "scholarships," is rendered a dead letter; i.e., the Gift Agreement is null and void.

Sigma Chi Foundation's Response to Sigma Chi Building Foundations Further Points and Authorities filed on 10/27/14 states Sigma Chi Building Foundation's Further Points and Authorities contains inaccurate statements of law and mischaracterizes the nature of the proceedings to date. Sigma Chi Building Foundation's request for an accounting misses the mark, overreaches, and is nothing more than an impermissible attempt to control and direct the Sigma Chi Foundation's activities, which this court should not endorse or permit. Not only are Sigma Chi Building Foundation's claims not germane to the administration of the Estate, but California Government Code section 12598 specifically prohibits Sigma Chi Building Foundation's attempt to control, direct, or otherwise monitor Sigma Chi Foundation. Sigma Chi Building Foundation lacks standing to seek any orders from this court regarding the scholarship fund in question and specifically lacks standing to obtain an accounting.

Sigma Chi Foundation asks the court to deny Sigma Chi Building Foundation's request for accountings and further asks this court to enter an order according to the Executor's proposed Order on the Petition for Instructions.

Legal arguments included in the response.

Sigma Chi Foundation requests this Court enter the Order previously submitted by counsel for the Executor Frank J. Volpa, which provides:

1. The scholarship fund established under paragraph 2 of the Fourth Article of the Will of Harold P. Hanson shall be used only for qualified applicants from the Beta Chapter of Sigma Chi Fraternity to obtain advantages of a college education at the University of Montana where the Beta Delta Chapter is established.
2. In light of the foregoing, paragraph one, section 1 of the March 2008 Gift Agreement between Executor, Frank J. Volpa and the Sigma Chi Foundation shall be amended to read as follows:
"Sponsorship at a rate to be determined by the Sigma Chi Foundation to provide academic scholarships to the University of Montana for members of the Beta Delta Chapter of Sigma Chi Fraternity."
3. The scholarship fund established under Paragraph 2 of the Fourth Article of the Will of Harold P. Hanson shall continue to be administered by Sigma Chi Foundation.

**Second Amended First and Final Accounting and Report of Status of Administration;
 Petition for Settlement Thereof; for Allowance of Statutory Attorney and
 Administrator's Compensation; for Reimbursement of Costs Advanced; and
 Petition to Close Estate**

DOD: 08/15/04		CAROLYN LEWIS , Executor, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS:
		Accounting is waived.	
		I & A - \$200,000.00	CONTINUED FROM 10/06/14 Minute Order from 10/06/14 states: The Court directs counsel to file a declaration. 1. The Petition requests that the full statutory fee be paid to the Attorney, however, Probate Code § 12205 states that the Court may reduce compensation to the personal representative and/or attorney when the time taken to close the estate exceeds the time prescribed in the code, etc. The decedent died in 2004 and Letters were issued on 12/08/05. The Court may consider reducing the requested compensation.
		POH - \$44,675.17	
		Executor - waived	
		Attorney - \$4,000.00 (statutory)	
		Costs - \$1,213.00 (filing fees, publication, probate referee)	
		Distribution, pursuant to decedent's will, is to:	
		Carolyn Lewis- \$39,462.17	
		Declaration of Philip Flanigan in Support of Allowance of Statutory Attorney Fees filed 10/20/14 states: as attorney for the personal representative, Carolyn Lewis, he prepared the initial Petition for Probate and supporting documents, Inventory & Appraisal and he required notices. After obtaining appointment as Executor, Ms. Lewis sold the real property asset of the estate and moved. She did not provide any forwarding information to the attorney. Correspondence sent to Ms. Lewis was not returned but no response was received either. As such, the file was thereafter ignored and only upon the Court's requiring the proper closing of the probate did his office engage in additional efforts to try and locate Ms. Lewis and file this Petition. Mr. Flanigan states that his office has done all that is required in order to complete the process and thus, he submits has earned the right to statutory compensation. While the matter would not have been closed absent the Court's insistence, the fact remains that his office's efforts allowed Petitioner, who is the sole beneficiary of the estate, to be able to sell the property. Nevertheless, if the Court disagrees, he is willing to abide by the Court's determination as to reasonable compensation for his services and have no objection to a reduction in the compensation being requested. Declarant understands that Ms. Lewis is not in good health and thus his primary objective is to get this matter closed.	
Cont. from 082514, 100614			
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Reviewed by: JF
Reviewed on: 10/28/14
Updates:
Recommendation:
File 3 - Geise

**Probate Status Hearing Re: Failure to File the Inventory and Appraisal and for
Failure to File a First Account or Petition for Final Distribution**

		<p>TAKAKO RENGE, spouse, was appointed Administrator with full IAEA without bond on 10/10/2006.</p> <p>Letters issued on 10/10/2006.</p> <p>Inventory and Appraisal was due on 03/2007.</p> <p>First Account or Petition for Final Distribution was due 12/2007.</p> <p>Notice of Status Hearing was mailed to Lawson K. Renge on 11/22/2013.</p> <p>Status Report filed 10/30/2014 states the only asset subject to this proceeding is decedent's client trust account. Bank of America gave two options for distribution:</p> <ol style="list-style-type: none"> Where the personal representative is an attorney, Letters Testamentary/Administration are required giving full authority to operate the account. Where the personal representative is not an attorney, the estate attorney must provide a statement accepting responsibility to ensure that the account is handled properly. <p>Attorney Renge has decided to accept the responsibility for handling the account because the personal representative, Takako Renge, of the Estate is not an attorney. Accordingly, Attorney Renge shall complete the requirements of the Bank in obtaining money in the account. Once the bank agrees to the acceptance of the responsibility the Inventory and Appraisal shall be filed. Additional time is requested to secure Bank approval and to obtain an appraisal for filing with the Court.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory and Appraisal and First Account or Petition for Final Distribution.</p>
Cont. from 030714, 062014, 081914			
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		<p>Reviewed by: LV</p> <p>Reviewed on: 10/28/2014</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Renge</p>	

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Atty Kruthers, Heather H., of County Counsel (for Petitioner Public Administrator)

First and Final Account and Report of Administrator and Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and For Distribution

DOD: 7/7/2011		PUBLIC ADMINISTRATOR , Administrator with Will Annexed, is Petitioner. Account period: 7/3/2012 – 5/20/2014 Accounting - \$241,666.61 Beginning POH - \$220,000.00 Ending POH - \$ 28,461.02 (all cash) Administrator - \$7,633.34 (statutory) Administrator XO - \$2,248.00 (per Local Rule 7.18(B)(1) for sale of two parcels of real property; and for 1 Deputy hour @ \$96 per hour and 2 assistant hours @ \$76 per hour for preparation and filing of fiduciary tax returns;) Attorney - \$7,633.34 (statutory) Costs - \$471.50 (filing fee, probate referee, publication, certified copies) Bond fee - \$604.17 (OK) Distribution pursuant to Decedent's Will is to: GAGE ANTHONY CERVELLI – \$9,870.67 cash. Petitioner prays for an Order: 1. Approving, allowing and settling the First and Final Account and confirming and approving all acts of the Petitioner as Administrator; 2. Authorizing payment of the Administrator and Attorney fees and commissions; 3. Since the whereabouts of GAGE ANTHONY CERVELLI are not known, authorizing Petitioner to deposit any remaining balance of funds with the Fresno County Treasury pursuant to Probate Code § 11850(a).	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 9/15/2014.</u>
Cont. from 091514			
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Reviewed by: LEG
Reviewed on: 10/28/14
Updates:
Recommendation:
File 6 - Cervelli

Status Hearing Re: Filing of the First Account and/or Petition for Final Distribution

DOD: 05/29/2009	DALE GEORGE MELL , son, was appointed Executor with full IAEA authority with bond set at \$85,000.00 on 10/19/2013.	NEEDS/PROBLEMS/COMMENTS:
	Letters issued 01/14/2013.	
Cont. from 041814, 060614, 080514, 091614	Inventory & Appraisal filed 03/08/2013 shows an estate valued at \$235,148.00 consisting of real property.	Minute Order of 09/16/2014: The Court issues Order to Show Cause with Sanctions of \$800 to Dale G. Mell for failure to perform duties. Counsel will notify Bond Company of Issues.
Aff.Sub.Wit.	Minute Order of 10/19/2013 set this matter for hearing.	Minute Order of 08/05/2014: Attorney Krbecheck is not present on today's date. The Court will continue the matter to continue the matter to accommodate his appearance.
Verified	Former Status Report filed 06/02/2014 the most recent hearing on this matter was on 04/18/2014. Attorney informed the Court, he has a solid working draft of the petition for final distribution. Bank records necessary to complete the petition were subpoenaed on 04/28/2014. The subpoena requested production of the bank records by 05/23/2014. The bank has communicated that they are assembling the documents and should be able to produce them on or about 06/06/2014. With this information the schedules on the petition for final distribution can be completed. Based on the forgoing a 30 day continuance of the Status Hearing is requested in order to complete and file the petition for final distribution.	Minute Order of 04/18/2014: The Court notes that the bond has been posted and the minute order of 10/19/2012 shows Dale G. Mell as the executor. Dale G. Mell is ordered to be personally present on 06/06/2014 if the required documents have not been filed.
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters	Declaration of Randolph Krbechek filed 08/05/2014 states he cannot attend the hearing set for 08/05/2014 because he is required to be in Redwood City at the same time for the final Pre-Trial conference in a pending superior court action. The trial in San Mateo case is set to commence on 08/11/2014. Based thereon, it is respectfully requested that the court continue the hearing on this matter to its next available date.	Copy of Minute Order mailed to Dale G. Mell on 04/18/2014.
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation	Please see additional page	1. Need First Account or Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
FTB Notice		Reviewed by: LV
		Reviewed on: 10/29/2014
		Updates:
		Recommendation:
		File 7A – Mell

Declaration of Randolph Krbechek Regarding Case Management Conference and Request for Continuance filed 09/15/2014 states he has known the executor, Dale Mell, for many years as a fellow professional. Mr. Mell is a licensed surveyor, each have worked together on numerous matters. He has also testified as an expert witness in cases that Attorney Krbechek has tried. For reasons that cannot be fully understood each is experiencing inordinate difficulty in closing the estate. Attorney Krbechek requests the Court's assistance in addressing this matter.

Order to Show Cause

DOD: 05/29/2009		<p>DALE GEORGE MELL, son, was appointed Executor with full IAEA authority with bond set at \$85,000.00 on 10/19/2013.</p> <p>Minute Order of 09/16/2014: The Court issues Order to Show Cause with Sanctions of \$800 to Dale G. Mell for failure to perform duties. Counsel will notify Bond Company of Issues.</p> <p>Notice of Order to Show Cause was mailed to Dale G. Mell on 09/19/2014.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need payment in the amount of \$800.00 for sanctions imposed on Dale G. Mell, Executor.</p> <p>Note: H.M. Vreeland and Son (Bonding Company) was served by mail on 09/17/2014.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: LV</p> <p>Reviewed on: 10/29/2014</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7B – Mell</p>	

7B

Atty Jaech, Jeffrey A., of Baker Manock & Jensen (for Petitioner Marilyn Z. Cunha, Guardian)

(1) First Account and Report of Guardian, (2) Petition for Allowance of Attorneys' Fees and (3) for Order Dispensing With Further Accountings Until the Guardianship is Terminated

Age: 12 years		MARILYN Z. CUNHA , paternal grandmother and Guardian of the Person appointed on 4/19/2012, and Guardian of the Estate appointed on 6/24/2013, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Pages 9 and 10 are related matters. Note: If Court grants Petitioner's request to dispense with accountings until termination of the Guardianship, Court will set a Status Hearing as follows: <ul style="list-style-type: none"> • Thursday, November 19, 2020 at 9:00 a.m. in Dept. 303 for the filing of the final account of the Guardianship. Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required. Note to Judge: File contains two orders for signature: (1) <i>Order Settling First Account and Report of Guardian, etc.;</i> and (2) <i>Order for Withdrawal of Funds from Blocked Account</i> for the payment of the requested attorney fees and costs, if approved.
DOB: 5/16/2002			
Cont. from 100714			
<input type="checkbox"/>	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
Aff.Pub.		Account period: 6/24/2013 – 6/9/2014 Accounting - \$43,486.47 Beginning POH - \$43,483.19 Ending POH - \$36,119.97 (all cash) Guardian - waives Attorney - \$3,419.00 (per Declaration of Jeffrey A. Jaech filed 8/28/2014 and itemization at Exhibit A; for 36.60 hours @ attorney rate of \$395.00 and paralegal rate of \$150.00; total \$6,838.00 allocated ½ from each minor;) Costs - \$746.25 (filing fees, certified copies, copies of records, process service; total \$1,492.50 allocated ½ from each minor;) Petitioner states all funds of the guardianship estate are held in a blocked account, and the annual income for this accounting period was \$3.28 ; because of the costs and attorneys' fees required for the preparation and filing of accountings, Petitioner submits it is wasteful and imprudent to account to the court bi-annually. Petitioner requests that all future bi-annual accountings be dispensed with, and that Petitioner need only file a final accounting at the termination of the Guardianship, pursuant to Local Rule 7.8.2.	
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
✓	2620(c)		
✓	Order		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: LEG Reviewed on: 10/28/14 Updates: Recommendation: File 8 – Cunha			

Atty Jaech, Jeffrey A., of Baker Manock & Jensen (for Petitioner Marilyn Z. Cunha, Guardian)

(1) First Account and Report of Guardian, (2) Petition for Allowance of Attorneys' Fees and (3) for Order Dispensing With Further Accountings Until the Guardianship is Terminated

Age: 10 years		MARILYN Z. CUNHA , paternal grandmother and Guardian of the Person appointed on 4/19/2012, and Guardian of the Estate appointed on 6/24/2013, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Pages 8 and 10 are related matters. Note: If Court grants Petitioner's request to dispense with accountings until termination of the Guardianship, Court will set a Status Hearing as follows: <ul style="list-style-type: none"> Thursday, August 25, 2022 at 9:00 a.m. in Dept. 303 for the filing of the final account of the Guardianship. Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required. Note to Judge: File contains two orders for signature: (1) Order Settling First Account and Report of Guardian, etc.; and (2) Order for Withdrawal of Funds from Blocked Account for the payment of the requested attorney fees and costs, if approved.	
DOB: 2/26/2004				
Cont. from 100714				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg	Account period: 6/24/2013 – 6/9/2014 Accounting - \$43,486.47 Beginning POH - \$43,483.19 Ending POH - \$36,119.97 <i>(all cash)</i> Guardian - waives Attorney - \$3,419.00 <i>(per Declaration of Jeffrey A. Jaech filed 8/28/2014 and itemization at Exhibit A; for 36.60 hours @ attorney rate of \$395.00 and paralegal rate of \$150.00; total \$6,838.00 allocated ½ from each minor;)</i> Costs - \$746.25 <i>(filing fees, certified copies, copies of records, process service; total \$1,492.50 allocated ½ from each minor;)</i> Petitioner states all funds of the guardianship estate are held in a blocked account, and the annual income for this accounting period was \$3.28 ; because of the costs and attorneys' fees required for the preparation and filing of accountings, Petitioner submits it is wasteful and imprudent to account to the court bi-annually. Petitioner requests that all future bi-annual accountings be dispensed with, and that Petitioner need only file a final accounting at the termination of the Guardianship, pursuant to Local Rule 7.8.2.		
<input checked="" type="checkbox"/>	Aff.Mail		<input type="checkbox"/>	W/O
<input type="checkbox"/>	Aff.Pub.		<input type="checkbox"/>	
<input type="checkbox"/>	Sp.Ntc.		<input type="checkbox"/>	
<input type="checkbox"/>	Pers.Serv.		<input type="checkbox"/>	
<input type="checkbox"/>	Conf. Screen		<input type="checkbox"/>	
<input type="checkbox"/>	Letters		<input type="checkbox"/>	
<input type="checkbox"/>	Duties/Supp		<input type="checkbox"/>	
<input type="checkbox"/>	Objections		<input type="checkbox"/>	
<input type="checkbox"/>	Video Receipt		<input type="checkbox"/>	
<input type="checkbox"/>	CI Report	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	2620(c)	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Order	<input type="checkbox"/>		
<input type="checkbox"/>	Aff. Posting	<input type="checkbox"/>		
<input type="checkbox"/>	Status Rpt	<input type="checkbox"/>		
<input type="checkbox"/>	UCCJEA	<input type="checkbox"/>		
<input type="checkbox"/>	Citation	<input type="checkbox"/>		
<input type="checkbox"/>	FTB Notice	<input type="checkbox"/>		

Atty Jaech, Jeffrey A.; Manock, Charles K.; of Baker Manock & Jensen (for Petitioner Juliana Cunha, mother)

(1) First Account and Report of Guardian, (2) Petition for Allowance of Attorneys' Fees and (3) for Order Dispensing With Further Accountings Until the Guardianship is Terminated

Age: 9 years	JULIANA CUNHA , mother and Guardian of the Estate appointed on 6/24/2013, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 8/9/2005		Pages 8 and 9 are related matters.
Cont. from 100714	Account period: 6/24/2013 – 7/7/2014	Note: If Court grants Petitioner's request to dispense with accountings until termination of the Guardianship, Court will set a Status Hearing as follows:
<input type="checkbox"/> Aff.Sub.Wit.	Accounting - \$43,594.91	
<input checked="" type="checkbox"/> Verified	Beginning POH - \$43,583.19	
<input checked="" type="checkbox"/> Inventory	Ending POH - \$43,594.91 (all cash)	
<input type="checkbox"/> PTC	Guardian - waives	
<input type="checkbox"/> Not.Cred.	Attorney - \$4,608.50 (per Declaration of Jeffrey A. Jaech filed 8/28/2014 and itemization at Exhibit A; for establishment of guardianship estate, blocked account deposit, first account; 23.70 hours @ attorney rate of \$395.00 and paralegal rate of \$150.00;)	Thursday, February 9, 2023 at 9:00 a.m. in Dept. 303 for the filing of the final account of the Guardianship.
<input checked="" type="checkbox"/> Notice of Hrg		Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required.
<input checked="" type="checkbox"/> Aff.Mail <small>W/O</small>		
<input type="checkbox"/> Aff.Pub.		Note to Judge: File contains two orders for signature: (1) Order Settling First Account and Report of Guardian, etc.; and (2) Order for Withdrawal of Funds from Blocked Account for the payment of the requested attorney fees and costs, if approved.
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen	Costs - \$896.00 (filing fees, certified copies;)	
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp	Petitioner states all funds of the guardianship estate are held in a blocked account, and the annual income for this accounting period was \$11.72 ; because of the costs and attorneys' fees required for the preparation and filing of accountings, Petitioner submits it is wasteful and imprudent to account to the court bi-annually.	
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report	Petitioner requests that all future bi-annual accountings be dispensed with, and that Petitioner need only file a final accounting at the termination of the Guardianship, pursuant to Local Rule 7.8.2.	
<input checked="" type="checkbox"/> 2620(c)		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		Reviewed by: LEG
<input type="checkbox"/> Status Rpt		Reviewed on: 10/28/14
<input type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 10 - Cunha

DOD: 10-7-12	JOAN ST. LOUIS , Spouse, filed Petition for Assumption of Law Practice of David St. Louis on 9-6-13.	NEEDS/PROBLEMS/ COMMENTS:
Cont. from 111313, 112013, 010814, 022614, 052814, 062514, 092214	Background: Mrs. St. Louis' petition requested:	Note: Page B is the status hearing for filing of the accounting.
Aff.Sub.Wit.	1) That the Court assume jurisdiction over the law practice of David J. St. Louis and appoint attorney PAUL T. CHAMBERS to represent and assist the Court in assuming jurisdiction;	Note to Judge: See Notes to Judge on Page 3.
Verified	2) Allow Mr. Chambers to appoint himself as receiver and take possession and control of any and all bank accounts related to Mr. St. Louis' law practice, including the attorney-client trust account which contained \$54,502.09 at 3-31-13;	
Inventory	3) Coordinate with Allison St. Louis, former legal secretary, to determine the clients entitled to funds and the amounts each is owed;	
PTC	4) Upon determining the recipients and the amounts owed, that Mr. Chambers be allowed to issue checks to the recipients without further court order;	
Not.Cred.	5) Specifically, that Mr. Chambers be allowed, without further Court order, to issue checks from a certain estate account (John K. Shirin Estate) to those recipients entitled thereto; and	
Notice of Hrg	6) Upon completion, provided accounting.	
Aff.Mail	Non-Opposition to Petition was filed 9-30-13 by the State Bar of California.	Reviewed by: skc
Aff.Pub.	A Creditor's Claim and Request for Special Notice was filed 9-30-13 by Attorney J. Patrick Sullivan, who represents Walter Wentz, Creditor.	Reviewed on: 10-28-14
Sp.Ntc.	Limited Opposition to Petition was filed 10-9-13 by BIANCA SORIA . Ms. Soria states she was a client of Mr. St. Louis, who was wired \$65,000.00 in connection with a settlement. Ms. Soria requested that as a condition to granting the petition, that the Court direct Mr. Chambers to distribute the funds to her, or to post appropriate bond.	Updates:
Pers.Serv.	At hearing on 10-16-13, the Court granted the petition with additional orders and set this status hearing. See Page 2 for specifics.	Recommendation:
Conf. Screen	Subsequent to the hearing, both attorneys David Roberts and Donald Cram submitted competing proposed orders.	File 11A – St. Louis
Letters	Therefore, the Court was to address the competing proposed orders at this status hearing on 11-13-13.	
Duties/Supp	SEE ADDITIONAL PAGES	
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Page 2

Minute Order 10-16-13: Mr. Cram is appearing via CourtCall on behalf of Bianca Soria. The Court accepts Mr. Roberts representation that Attorney Timothy Magill has been given notice. The Court finds that Patrick James' client has been properly served. The Court will allow the interlineation under 9764. The Court grants the petition and waives bond. The Court orders that the \$41,155.89 be paid within 30 days. The Court notes that there are no funds to pay Attorney Chambers and he is acting in pro bono. Matter set for Status Hearing on 11/13/13. If everything is completed by 11/13/13, no appearances will be necessary. Set on 11/13/13 at 9am in Dept 303 for Status Hearing. Additional hearing dates 3/6/14 at 9am Dept 303 for Status Re Accounting; Petition is granted; Order to be signed ex parte.

Attorney David A. Roberts submitted a proposed Order that contains orders as follows:

1. Granting the petition that the Court assume jurisdiction over the law practice, including, but not limited to, dispersing [sic] funds held in the attorney-client trust account;
2. Appointing Paul T. Chambers to represent and assist the Court in assuming jurisdiction over the law practice without bond and shall receive no compensation;
3. That Mr. Chambers coordinate with Allison St. Louis to determine the clients entitled to files, documentation, and/or funds and the amounts each is owed;
4. That the amount that Mr. Chambers finds due to Ms. Soria shall be paid within 30 days from the entry of this order without further Court order;
5. That Mr. Chambers be allowed to appoint himself receiver and take possession of the various accounts and have signature power over such accounts, including that certain account fbo John K. Shirin or his heirs;
6. That after determining the recipients of the files, documents, and money, and the amount thereof, that Mr. Chambers is given the authority to disburse such without further Court order;
7. That Mr. Chambers is authorized without further Court order to issue checks from the John K. Shirin account to those recipients entitled thereto;
8. That upon completing the foregoing tasks, Mr. Chambers provide an accounting, upon approval of which he shall be discharged; and
9. That Mr. Chambers inform the Court of any other action taken as the Court's representative;
10. Setting hearing for approval of the final account on 3-6-14.

Attorney Donald H. Cram submitted an Alternate proposed Order that includes, in addition to the above orders, that Mr. Chambers shall disburse no less than \$41,155.89 to Ms. Soria within 30 days without further Court order.

Note: Per Minute Order 2-26-14, bond of \$47,000.00 was required. Bond was filed 3-17-14. No further status report or accounting has been filed.

Note: The Court had originally set status hearing for 3-6-14 for the filing of the accounting. On 3-6-14, that status hearing was continued with this status hearing. See Page B.

Note: The Order for Court Assumption of the Law Practice of David J. St. Louis, Deceased, and Appointing Paul T. Chambers Practice Administrator with Related Powers of Administration was signed on 3-26-14. An Amended Order was signed by the Court 5-14-14, which included specific distribution relative to the Shirin Estate.

Note: The amended order was apparently submitted to the Court for signature ex parte without petition. \$60.00 is due for the amended order.

Page 3

Notes to Judge:

- Examiner Notes from hearing on 10-16-13 are provided for your reference on the left side of the file regarding the issues raised regarding the petition and opposition.
- Upon receipt of the competing proposed orders, Judge Oliver asked me to review.
- Upon review of the competing proposed orders, and with concerns that were previously noted, assistance was requested from Research Attorney Dawn Annino regarding whether either of the competing orders should go forward, given that both contain additional specifics for disbursements from the accounts, when Probate Code §9764 appears designed to appoint an attorney to assume the practice only.
- Please also see the response from Ms. Annino dated 11-4-13 provided for your reference on the left side of the file.
- The “Amended Order” was received by Judge Oliver and signed. This order amends the order of 3-26-14 and specifically includes distribution relative to cases that are not before this Court.
- The Court may wish to review the file personally.

11B David J. St. Louis (9764)
Atty Roberts, David A. (for Joan St. Louis)
Atty Chambers, Paul T. (Practice Administrator)

Case No. 13CEPR00789

Status Hearing Re: Filing of Accounting of the Practice Administrator

		<p>DAVID J. ST. LOUIS, an attorney, passed away 10-7-12.</p> <p>On 10-16-13, pursuant to the petition of JOAN ST. LOUIS, Attorney PAUL T. CHAMBERS was appointed as Practice Administrator pursuant to Probate Code §9764 without bond.</p> <p>At the hearing on 10-16-13, the Court set this status hearing for the filing of a final accounting by the Practice Administrator pursuant to Probate Code §9764(h).</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 3-6-14, 3-26-14, 5-28-14, 6-25-14, 9-22-14</u></p> <p><u>Note:</u> First Account of IOLTA Trust Funds by Court Appointed Practice Administrator and Status Report was filed 10-30-14 and set for hearing on 12-16-14. (This matter was not taken off calendar administratively because it was continued by the Court.)</p>
<p>Cont. from 030614, 032614, 052814, 062514, 092214</p>			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 10-28-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11B – St. Louis</p>

11B

Age: 10		STEPHANEE WOODWARD, Cousin, was appointed as Guardian of the Person and Estate pursuant to Order entered 8-28-14 with all fund to be blocked.	NEEDS/PROBLEMS/COMMENTS:
DOB: 3-18-04			
			Continued from 9-30-14
			<u>Minute Order 9-30-14: Counsel will file documents regarding issues on Examiner Notes.</u>
Cont. from 093014		Separately on 8-28-14, the Court set this status hearing for the filing of the receipt for blocked account and sent notice to Attorney Van Doren.	<u>As of 10-28-14, nothing further has been filed. The following issue remains:</u>
Aff.Sub.Wit.			
Verified			1. Need receipt for blocked account (MC-356) or verified status report pursuant to Local Rule 7.5.
Inventory			<u>Note:</u> Guardianship of the estate was requested in order to obtain any insurance or pension funds due the minor; however, at the time of appointment, the nature and amounts expected were unclear. The Court may require clarification regarding actions taken to determine whether the minor is entitled to lump sums or monthly payments, and if so, need Order to Deposit Money Into Blocked Account (MC-355).
PTC			<u>Note:</u> The Court also set a status date of <u>1-13-15</u> for the filing of the Inventory and Appraisal.
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			Reviewed by: skc
Status Rpt			Reviewed on: 10-28-14
UCCJEA			Updates:
Citation			Recommendation:
FTB Notice			File 12 - Fuente

Amended Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 07/26/2013		ROY BORUNDA , brother is petitioner and requests appointment as Administrator without bond.	NEEDS/PROBLEMS/COMMENTS:
			1. Need Affidavit of Publication.
		All heirs waive bond – See Note	<p>Note: The Original Petition filed 08/25/2014 requested bond set at \$250,000.00. Attached to that petition were waivers of bond from each of the heirs. It is unclear if those waivers of bond are still applicable to this petition since they were attached to the original petition where bond had been requested. The Court may require additional waivers of bond.</p>
Cont. from		Full IAEA - ?	
<input type="checkbox"/>	Aff.Sub.Wit.	Decedent died intestate	
<input checked="" type="checkbox"/>	Verified	Residence: Caruthers	
<input type="checkbox"/>	Inventory	Publication: Need	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Estimated value of the Estate:	
<input checked="" type="checkbox"/>	Aff.Mail	Personal property - \$159,000.00	
<input type="checkbox"/>	Aff.Pub.	Probate Referee: Rick Smith	
<input type="checkbox"/>	Sp.Ntc.		<p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Monday, 03/02/2015 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Monday, 01/04/2016 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		<p>Reviewed by: LV</p> <p>Reviewed on: 10/29/2014</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13B – Borunda</p>
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

DOD: 8-1-13		PRIMAVERA DAMME , Daughter, is Petitioner and requests appointment as Administrator with Full IAEA with bond of \$175,000.00. Petitioner is a resident of Mesa, AZ. Full IAEA – need publication Decedent died intestate Residence: Fresno Publication: need publication Estimated value of estate: Personal property: \$ 5,000.00 Real property: \$ 170,000.00 Total: \$ 175,000.00 Probate Referee: Rick Smith	NEEDS/PROBLEMS/COMMENTS: <div> <u>CONTINUED TO 12-3-14</u> Per attorney request </div> <ol style="list-style-type: none"> Need Duties and Liabilities of Personal Representative (DE-147) and Confidential Supplement (DE-147S) Need Notice of Petition to Administer Estate (DE-121) Need proof of service of Notice of Petition to Administer Estate at least 15 days prior to the hearing pursuant to Probate Code §8110 on all parties listed at #8 of the petition: - Javier F. Sanchez (son) - Daniel Adan Sanchez (son) Need publication pursuant to Probate Code §8120. Need Order. Need Letters. 	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Aff.Mail	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Aff.Pub.	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Duties/Supp	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<div> Reviewed by: skc </div> <div> Reviewed on: 10-28-14 </div> <div> Updates: </div> <div> Recommendation: </div> <div> File 14 – Valencia </div>				

Age: 91	TEMPORARY CONSERVATORSHIP OF THE PERSON AND ESTATE EXPIRES 11-3-14	NEEDS/PROBLEMS/COMMENTS:
DOB: 9-9-23		
	The FRESNO COUNTY PUBLIC GUARDIAN is Petitioner and requests appointment as Conservator of the Person with medical consent powers under Probate Code §2355 and dementia placement powers under Probate Code §2356.5.	Court Investigator advised rights on 10-10-14.
	Voting rights affected	Voting rights affected - Need minute order
<input type="checkbox"/> Aff.Sub.Wit.	A Capacity Declaration was filed 9-19-14. The Capacity Declaration of Beena Nair, a California licensed physician, dated 8-20-14 supports the request for medical consent powers and the request for dementia placement powers.	Note: The temporary conservatorship order authorized Petitioner to change the residence of the proposed Conservatee and also authorized medical consent powers pursuant to the Capacity Declaration.
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory	(Note: The Capacity Declaration also supports dementia medication powers; however, Petitioner does not request authorization to administer dementia medication.)	1. The Court may require clarification regarding the request to sell the proposed conservatee's former residence with reference to Probate Code §2540. Has the proposed sale been discussed with Ms. Craig?
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Estimated Value of Estate:	Reviewed by: skc
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail	Personal property: \$ 10,500.00	Reviewed on: 10-28-14
<input type="checkbox"/> Aff.Pub.	Annual income (pensions): \$ 48,000.00	Updates:
<input type="checkbox"/> Sp.Ntc.	Public Assistance (SSA): \$ 8,400.00	Recommendation:
<input checked="" type="checkbox"/> Pers.Serv. w	Real property: \$ 125,000.00	File 15 – Craig
<input type="checkbox"/> Conf. Screen	Petitioner states the proposed Conservatee was residing in her own home with her son until very recently. In August, she was found wandering, confused and agitated, in her complex, and was taken to the hospital. Her son, Alan, was also taken to the hospital. Ms. Craig is unable to care for herself or take her medication on her own. Ms. Craig is also unable to manage her assets. Her son Alan was helping her pay bills, but was paying his bills with her money as well. Alan is also unable to care for Ms. Craig due to his own medical issues.	
<input checked="" type="checkbox"/> Letters	Petitioner also requests authority to sell Ms. Craig's house and personal property no longer needed by her. The Public Guardian is researching options for her to be able to live at home, but if it is determined that Alan also requires placement in a facility, having the authority to sell granted at this time would benefit the proposed conservatee's estate.	
<input type="checkbox"/> Duties/Supp	SEE PAGE 2	
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input checked="" type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Court Investigator Samantha D. Henson filed a report on 10-24-14. The report states Ms. Craig has been placed at Bella Vista Memory Care. She displayed obvious memory deficits and did not appear to fully understand the conservatorship. She asked several times if the Investigator knew where her parents were, and thought that her sons, Alan and Brad, were her brothers.

During the temporary investigation, the Investigator spoke to Ms. Craig's son, Alan, who is currently residing at Golden Living Center. He stated that he wants what is best for his mother and is agreeable to conservatorship. Ms. Craig's son, Brad, also feels conservatorship will be beneficial to his mother.

Deputy Public Guardian Renee Garcia stated that Ms. Craig is doing well in her current placement and appears to be calmer. There are no plans to move her from her current placement because Ms. Craig does not have the financial means to have 24-hour care in her own home.

The Investigator states conservatorship appears to be in Patricia Craig's best interest and is the least restrictive alternative available. It appears she is residing in the least restrictive appropriate setting. It is therefore recommended that the petition be GRANTED with medical consent and dementia powers pursuant to the Capacity Declaration.

Note: If the petition is granted, status hearings will be set as follows:

- **Monday, April 6, 2015** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal.
- **Monday, April 4, 2016** at 9:00 a.m. in Department 303, for the filing of the first account current.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

16 Wayne Lee Bandy (Estate)

Case No. 14CEPR00884

Atty Standard, Donna M. (for Terry Novack – Named Executor – Petitioner)

Atty Blyth, Stan D. (of Oakland, CA, for Contestants Shon Treanor and Jill Treanor)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 9-21-14			TERRY NOVACK , named Executor without bond, is Petitioner. (relationship not stated) Full IAEA – need publication Will dated 6-9-14 Residence: Squaw Valley, CA Publication: need publication Estimated value of estate: Personal property: \$20,000.00 Annual income: "Unknown at this time, expectancy of daughter's estate" Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> Page 21 is a related matter (Conservatorship of Mary Louise Bandy) <u>Note:</u> Contest and Grounds of Objection to Probate of Purported Will filed 10-30-14 by Shon Treanor and Jill Treanor, Successor Trustees of the Cheryl Gortemiller Living Trust, is set for hearing on 12-18-14. 1. Documents are not properly tumbled pursuant to Cal. Rules of Court, Rule 2.134. Attorney is reminded to make sure documents filed in the future are properly tumbled. 2. #5 of the Petition is incomplete at (a)(7) and (a)(8). Was the decedent survived by issue of a predeceased child? 3. #8 of the Petition does not provide the relationships to the decedent of the people listed. 4. Need names and dates of deaths of the decedent's spouse and daughter pursuant to Local Rule 7.1.1.D. (Although the decedent's will references dates of death, this information is required to be provided and verified by the Petitioner.) 5. Petitioner appears to have stricken the listing of the decedent's grandson, James Bandy at #8 of the Petition, and he was not given notice of this petition. Although James Bandy is specifically excluded as an heir pursuant to the decedent's will, because he is specifically mentioned in the will, he may be entitled to notice of this proceeding. See Probate Code §8110 and Cal. Rules of Court, Rule 7.51(d) re notice to a minor, if applicable. <p style="text-align: right;"><u>SEE PAGE 2</u></p>
	Aff.Sub.Wit.	S/P		
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			
	Aff.Pub.	x		
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters	x		
✓	Duties/Supp			
✓	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: skc
Reviewed on: 10-28-14
Updates: 10-31-14
Recommendation:
File 16 – Bandy

Page 2

NEEDS/PROBLEMS/COMMENTS (Continued):

- 6. Pursuant to Cal. Rules of Court, Rule 7.51(e), notice may be required to the personal representatives of the estates of the post-deceased heirs, or their heirs. The Court may require additional information regarding whether estates have been established for the decedent's spouse and daughter, and may require additional information and notice to their heirs of this proceeding.**
- 7. Notice to Lilarose Bangs was sent "C/O" Bright Horizons. Direct notice is required pursuant to Cal. Rules of Court, Rule 7.51(a).**
- 8. Need publication pursuant to Probate Code §8120.**
- 9. Need Letters.**

Note: If the petition is granted, status hearings will be set as follows:

- **Monday, April 6, 2015** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal.
- **Monday, April 4, 2016** at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

Note to Judge – The following information is provided for your reference:

- **Decedent Wayne Lee Bandy** died on **9-21-14**.
- **Decedent's will dated 6-9-14 states** that his wife, **Mary Louise Bandy** (Conservatee at Page 21, now deceased), predeceased him on **6-8-14** (*the day before this will was prepared*), and that their daughter, **Cheryl Gortemiller**, predeceased him on **3-20-14**.
- **The will then provides for some specific gifts and devises the residue to Petitioner Terry Novack, or alternatively Arthur Ostrander, specifically excluding the decedent's son Mark Bandy and grandson James Bandy.**
- As stated in Note #2 above, it is not known whether Cheryl Gortemiller had issue; however, the statement at #3 of the Petition regarding expecting distribution from her estate indicates that she probably didn't, if her father expected that he an heir. Court records do not reflect any probate proceeding for Cheryl Gortemiller; however, we have a **Will Contest filed by Shon Treanor and Jill Treanor, Successor Trustees of the Cheryl Gortemiller Living Trust**, set for **12-18-14**.
- **Page 21 of this calendar is a status hearing set in the Conservatorship of Mary Louise Bandy, 14CEPR00295.**
- **Decedent Wayne Lee Bandy**, along with this Petitioner **Terry Novack** and **Arthur Ostrander**, were appointed as **Co-Conservators of the person and estate of Mary Louise Bandy on 5-28-14, with additional powers under Probate Code §2590**. It does not appear that Letters ever issued, and according to Mr. Bandy's will, Mrs. Bandy died 11 days later. (But that is not yet verified.)
- **The Court may wish to reference the issues previously noted regarding the original conservatorship petition on the Probate Examiner Notes for the hearing on 5-28-14, placed on the left side of the file 14CEPR00295 for your referece. Specifically, the Supplement to Petition filed 5-23-14 in 14CEPR00295 stated that Mr. Bandy intended to obtain conservatorship of his wife in order to change their trust to disinherit their son and grandson.**
- Given the stated intent in the conservatorship matter to revise the couple's estate-planning documents, Examiner brings these details to the Court's attention in the event that other related estate-planning documents may have been prepared with or without proper authority for Mrs. Bandy, or in the event that other or prior estate-planning documents may surface.
- Mrs. Bandy's estate is not yet before the Court; however, the son, grandson, and any heirs of the daughter may still be heirs of Mrs. Bandy.
- Also note: The grandson, James Bandy, appears to be a minor. The entry that is redacted with xxxxx from #8 of the petition indicates that he is 17.

Atty Frisella, Lisa J.; Allard, Mara C.; of Law Office of Lisa J. Frisella, San Diego (for Petitioners Steven Smith and Gillian Brock)

Petition to Determine Validity of Trust; for Order Confirming Trust Assets; to Determine to Whom Trust Property Shall Pass; and for Appointment of Successor Trustee; for Undue Influence; for Duress and Menace; for Reimbursement of Costs and Expenses of Administration; for Payment of Attorneys' Fees and Punitive Damages

DOD: 7/29/2014		<p>STEVEN SMITH, son, and GILLIAN BROCK, daughter, are Petitioners.</p> <p>Petitioners state:</p> <ul style="list-style-type: none"> Petitioners are the Co-Trustees of the VIRGINIA W. SMITH REVOCABLE LIVING TRUST dated 3/14/2005 (copy attached as Exhibit 2); Petitioners do not live in the Fresno area; Petitioners bring this petition to determine the validity of the Trust, to confirm Trust assets, and determine to whom the property should pass; Petitioners request this Court confirm that the Trust is a valid Trust and the that property described in <i>Schedule A</i> of the Trust are assets subject to the Trust; Virginia Smith [Decedent] died after she was admitted to Clovis Community Regional Center on 7/5/2014 with bruising, malnutrition and an E Coli infection; the cause of death listed on her Certificate of Death is Alzheimer's Disease (copy attached as Exhibit 1); Hospital records indicate that Decedent was admitted on 7/5/2014 by her caregiver, JERRY PHARRIS, who reported he found her on the kitchen floor two days in a row; <p>~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> <i>Petition</i> is silent on the proper basis of jurisdiction and venue for this matter pursuant to Probate Code § 17004 and 17005. The <i>Petition</i> requests that the Court find the <i>Last Will and Testament of Virginia W. Smith</i> dated 1/10/2012 is invalid. The Decedent's Will is not before the Court in the instant <i>Petition to Determine Validity of Trust and for Order Confirming Trust Assets</i>. The <i>Petition</i> requests the Court make findings of the commission of elder abuse by JERRY PHARRIS under Welfare & Institutions Code § 15610.30, which requires findings outside the scope of this proceeding as well as the Probate Code. Prayer of the <i>Petition</i> mentions the name RALPH BLACKWELL, a person not previously mentioned in any of the pleadings filed in this matter, and requests that Jerry Pharris is deemed to have predeceased Ralph Blackwell, which appears to require findings outside the scope of the pleadings as well as this proceeding. <p>~Please see additional page~</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/O		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order X		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 10/30/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17 – Smith</p>	

Petitioners state, continued:

- Jerry Pharris reported that she had not been eating for 5 years but only drank "Ensure" and she had not been taking her medication for 2 months; he reported he administered anti-diarrhea pills to her so "He didn't have to clean her often;"
- On 7/10/2014, Decedent was discharged from the hospital tolerating food and feeling better to Willow Creek Care Facility, where she reported to staff that she was sexually abused by Jerry Pharris; Willow Creek staff contacted Petitioner Steven Smith to inform him of the abuse allegations;
- Petitioner Steven Smith came to Fresno and contacted police; an abuse investigation was opened by Fresno Police on 7/19/2015;
- On 7/19/2014, the Fresno Police contacted Jerry Pharris at Decedent's home, and Pharris presented a document entitled *Last Will and Testament of Virginia W. Smith* dated 1/10/2012, stating therein that her entire estate is devised to Jerry Pharris (copy of Will attached as Exhibit 3);
- Operating with the representation that he had exclusive authority as executor of the estate, Pharris denied entrance to the home to Petitioner Steven Smith;
- Bank records show that on 8/5/2014, Pharris made 3 separate withdrawals of **\$500.00** from Decedent's bank account;
- Bank records show that Pharris withdrew funds from social security and annuity deposits to Decedent's checking account made after her death;
- Petitioners believe Jerry Pharris made acquaintance with Decedent in 2004 through a senior center; he began mowing her lawn and doing repairs around her house; Jerry Pharris moved into the detached in-law unit behind Decedent's house in 2009, after the former tenant vacated due to her belief that Jerry Pharris broke into the unit, and after Jerry Pharris' harassment of her; Pharris then lived rent-free in the unit, which previously rented for **\$550.00** per month;
- Pharris arranged to have all phone calls screened on speaker so he could participate in calls Decedent had with her children; Pharris took over financial control of Decedent's bank accounts and discouraged her from having contact with her family and intimidated her friends and neighbors;
- Personal property assets listed on Schedule A of the Trust are believed to be in Decedent's residence or a storage facility, and include valuable dolls and jewelry with an estimated value of **\$30,000.00 to \$40,000.00**;
- Petitioners allege the Will dated 1/10/2012 attached as Exhibit B is not and never was Decedent's Will and was made at the time of its alleged execution as a result of undue influence; the Will is the product of fraud, menace and/or duress, and Petitioners believe Pharris deprived Decedent of nourishment and care, isolated and intimidated her and those around her for the purpose of gaining control of her assets and her residence;
- Petitioners allege pursuant to Probate Code § 21380(a)(3) that any donative transfer to Jerry Pharris is presumed to be the product of fraud or undue influence as the instrument was executed during the period Jerry Pharris provided care custodian services to Decedent;
- Petitioners allege the Will dated 1/10/2012 is the product of fraud, menace and/or duress and believe that Pharris deprived Decedent of nourishment and care, isolated and intimidated her and those around her for the purpose of gaining control of her assets and her residence;
- Pharris lived with Decedent for nearly 7 years prior to Decedent's death and occupied a position of trust and confidence; during that time, Pharris took over her financial affairs and actively discouraged her from communicating with family and friends;

~Please see additional page~

Petitioners state, continued:

- During the time of his relationship with Decedent, Pharris was able to exert control and influence over the mind and actions of Decedent to such a point that Decedent was no longer capable of exercising her own conviction or desire with regard to her actions or thoughts, but rather, because of the pressure brought on her by Pharris;
- Due to the progression of her Alzheimer's Disease, Decedent was not of sound mind and lacked capacity to make the Will on 1/10/2012, and at the time the Will was executed Decedent was aged and infirm and suffering from memory problems;
- As a result of Decedent's physical and mental infirmities, Decedent was easily influenced and controlled by Pharris;
- Petitioners and Decedent enjoyed a close relationship until Jerry Pharris entered their mother's life;
- Before Jerry Pharris came in to Decedent's life, Petitioner Steve Smith assisted his mother with her financial affairs and in fact tried to convince her to move close to his home in Nevada when she turned 90;
- Due to Pharris' influence, Decedent declined her son's urgings to move;
- Pharris insisted that Decedent not use the computer, and controlled all of her access to the telephone;
- Attempts made by Petitioner Steven Smith to contact Decedent by telephone became futile and he was left to resort to police welfare checks to check in on his mother in 2013 and 2014;
- Petitioners request distribution of Trust assets and an order allowing Petitioners entrance to their mother's home and storage facility for purposes of marshalling the Trust assets until the issues raised in this petition have been addressed.

Petitioners request an Order as follows:

1. The **VIRGINIA W. SMITH REVOCABLE LIVING TRUST** dated 3/14/2005 is valid;
2. Personal property described in Schedule A of the Trust are assets of the Trust subject to management and control of the Successor Co-Trustees;
3. Steven Smith and Gillian Brock are appointed Successor Co-Trustees of the **VIRGINIA W. SMITH REVOCABLE LIVING TRUST** and will serve without bond;
4. The beneficiaries entitled to distribution of the **VIRGINIA W. SMITH REVOCABLE LIVING TRUST** are Steven Smith and Gillian Brock;
5. The *Last Will and Testament of Virginia W. Smith* dated 1/10/2012 is invalid as the product of undue influence, fraud, menace and duress;
6. The *Last Will and Testament of Virginia W. Smith* dated 1/10/2012 is invalid due to the mental incapacity of Virginia W. Smith at the time of execution;
7. That **JERRY PHARRIS** has committed financial elder abuse under Welfare & Institutions Code § 15610.30, and is deemed to have predeceased **RALPH BLACKWELL** pursuant to Probate Code § 259;
8. For Status Quo order, preventing disposal or distribution of **VIRGINIA W. SMITH REVOCABLE LIVING TRUST** assets until the issues raised in this Petition have been addressed; and
9. That the Court order reimbursement of all attorneys' fees and costs paid.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

Notes:

- *Ex Parte Request to Inventory and Collect Trust Assets Pending Petition to Determine Validity of Trust* was filed 9/25/2014; *Ex Parte Order* filed 9/29/2014 denied the request.
- Petitioner Steven Smith resides in Nevada, and Petitioner Gillian Brock resides in Georgia.
- Paragraph 25 of the *Petition* states the Decedent's house on Farris Avenue in Fresno is not an asset of the **VIRGINIA W. SMITH REVOCABLE LIVING TRUST**, and *Schedule A* of the Trust lists the Trust assets as personal property that is contained in the Decedent's house, not the house itself.
- Part 6 Paragraph D of the Trust names both Petitioners as Successor Trustees of the Trust following the death of Decedent, and Paragraph G waives bond for named trustees. Part 10 of the Trust distributes the Trust property to Petitioners in equal shares.

Note to Judge: Petitioners appear to rely on the following provisions for finding the Decedent's Will invalid; however, Petitioners are attempting to obtain the Court's determination of the validity of the Decedent's Will in this proceeding requesting validity of the Decedent's Trust (among other requests):

Probate Code § 21380(a) provides, in pertinent part: A provision of an instrument making a donative transfer to any of the following persons is presumed to be the product of fraud or undue influence:

....

(3) A care custodian of a transferor who is a dependent adult, but only if the instrument was executed during the period in which the care custodian provided services to the transferor, or within 90 days before or after that period.

Probate Code § 21380(b) provides that the presumption created by this section is a presumption affecting the burden of proof. The presumption may be rebutted by proving, by clear and convincing evidence, that the donative transfer was not the product of fraud or undue influence.

Probate Code § 21380(d) provides that if a beneficiary is unsuccessful in rebutting the presumption, the beneficiary shall bear all costs of the proceeding, including reasonable attorney's fees.

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 09/22/14		JENNIFER WILLIAMSON , sister/named Executor without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. It appears from the Petition that Petitioner is seeking to admit only the 1996 Will to probate; however a later dated (2007) holographic instrument has also been deposited with the court. The Court may require authority to admit a prior will when a more recently dated testamentary instrument also exists. 2. Petitioner contends that the 2007 Holographic instrument was conditional on the testator surviving a surgery he was to have. The pertinent part of the 2007 document states, "This brief letter will serve to document my change in my will if something should happen to me."..."I will formalize this in rewriting a formal will if I survive [sic] my operation." The court may require more information/authority regarding Petitioner's contention that this instrument was conditional. 3. If the 2007 holographic instrument is to be admitted to probate, will need Proof of Holographic Instrument (form DE-135) and a typed copy of the document pursuant to Probate Code § 8002. 4. The Petition requests that Jennifer Williamson be appointed as Executor without bond as she is nominated as such in the 1996 will, however, due to the questions regarding the 2007 holographic document, it is unclear whether her appointment as executor is appropriate. The Court may require authority.	
		Full IAEA – OK		
		Will dated 05/03/96		
Cont. from		Residence: Fresno		
	Aff.Sub.Wit.	Publication: The Business Journal		
✓	Verified	Estimated Value of the Estate: Personal property - \$1,500,000.00 Annual income - 100,000.00 Real property - 130,000.00 Total - \$1,730,000.00		
	Inventory			
	PTC			
	Not.Cred.	Probate Referee: RICK SMITH		
✓	Notice of Hrg	Declaration of Jeffrey A. Jaech filed 10/30/14 states: Decedent and Patricia Williamson's divorce became final on 06/20/14. Under the Marital Settlement Agreement, each party waived the right to take property from the other by devise, bequest, or inheritance. Furthermore, Petitioner did not petition that the document dated 03/27/07 be admitted to probate because by its own terms its validity was made conditional on the testator not surviving his impending surgery. The testator did survive that surgery causing the document to be invalid.		
✓	Aff.Mail			w/o
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: JF Reviewed on: 10/28/14 Updates: 10/31/14 Recommendation: File 18 – Williamson	

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

[illegible]

**Probate Status Hearing Re: Failure to File the Inventory and Appraisal and for
Failure to File a First Account or Petition for Final Distribution**

DOD: 06/13/2003	RICHARD MONIZ and HELEN MONIZ , were appointed Executors with full IAEA authority without bond on 09/30/2002.	NEEDS/PROBLEMS/COMMENTS: Minute Order of 10/06/2014 (Judge Cardoza): Counsel reports that a petition for final distribution has been prepared and will be filed soon. Minute Order of 08/18/2014: Mr. Milnes has located Richard and Helen Moniz and will provide the clerk's office with the address. OSC issued to Richard and Helen to personally appear on 10/06/2014 to explain why they have not fulfilled their duties. Order to Show Cause mailed to Richard Moniz and Helen Moniz on 08/18/2014. Minute Order of 07/07/2014: Counsel reports that he has been unable to locate Richard Moniz and Helen Moniz. Minute Order of 05/30/2014: No appearances. The Court sets the matter for an Order to Show Cause on 07/07/2014 regarding failure to appear. The Court orders Michael Milnes to be personally present on 07/07/2014. Copy of Minute Order mailed to Michael Milnes on 05/30/2014. Minute Order of 02/07/2014: No appearances. Mr. Milnes is directed to contact his clients regarding this matter. Copy of Minute Order mailed to Michael Milnes on 03/06/2014. 1. Need Final Inventory and Appraisal and First Account or Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
	Letters issued on 02/23/2004.	
	Inventory and Appraisal was due 02/23/2004.	
Cont. from 020714, 032814, 053014, 070714, 081814, 100614	First Account or Petition for Final Distribution was due on 11/2004.	
Aff.Sub.Wit.	Notice of Status Hearing was mailed to Michael Milnes, Attorney, Richard Moniz, and Helen Moniz on 11/20/2013.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: LV		
Reviewed on: 10/28/2014		
Updates:		
Recommendation:		
File 20 – Gracie		

Status Hearing for Failure to Have Letters Issue

DOD: 06/08/2014		WAYNE L. BANDY (now deceased), spouse, ARTHUR OSTRANDER, friend (CPA), and TERRY NOVAK, friend (Caregiver), were appointed as Co-Conservators of the Person and Estate with independent powers under Probate Code §2590, without bond.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 100815		Letters have not issued.	<p>Note: Page 16 is a related matter (Estate of Wayne Lee Bandy)</p> <p>Minute Order of 10/08/2014 (Judge Cardoza): Counsel reports that Ms. Bandy passed away before letters could be issued. Counsel is ordered to submit written status report.</p> <p>1. Need Letters to issue or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Aff.Sub.Wit.			
Verified		Notice of Status Hearing was filed 09/03/2014.	
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed by: LV Reviewed on: 10/29/2014 Updates: Recommendation: File 21 - Bandy

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820)

Age: 23		MANILA VANG , Sister, is Petitioner and requests appointment as Probate Conservator of the Person with medical consent powers. Voting rights <u>not</u> affected A Capacity Declaration was filed 10-29-14. Capacity Declaration of Grace W. Lim, MD, supports the request for medical consent powers. Petitioner states her sister has had various medical issues since birth and at this time is also mentally ill. Court Investigator Dina Calvillo filed a report on 9-3-14. The report states the proposed Conservatee currently resides with other siblings at a home in Sanger, who support this petition. The family takes turns caring for her and has nominated Petitioner to be her conservator. Ms. Chang suffers from Cloacal Exstrophy (EC), which is a severe birth defect wherein much of the abdominal organs (bladder and intestines) are exposed. She also has only one kidney, hearing loss, chronic kidney stones, urinary incontinence, and has become mentally ill, requiring 5150 holds due to bizarre (violent) behavior including talking to herself, etc. Petitioner states there will be no change in her sister's placement, but her sister is very dependent on family to meet her needs and is not able to function on her own. She is in the process of having her sister seen by her doctor to complete the Capacity Declaration. Ms. Chang was cooperative during the interview and was able to answer questions relating to voter registration. She said she is appreciative of her sister's help and agrees with having Manila Vang as her conservator. The report states it appears the proposed Conservatee is substantially unable to provide for her personal needs and conservatorship is the least restrictive alternative. It is recommended that Manila Vang be appointed Conservator of the person and be GRANTED with medical consent powers if a Capacity Declaration is filed supporting such request.	NEEDS/PROBLEMS/COMMENTS: Court Investigator advised rights on 8-26-14. <u>Continued from 9-11-14</u> Minute Order 9-11-14: Petitioner waiting on Capacity Declaration. <u>Note:</u> Capacity Declaration was filed 10-29-14. <u>Note to Judge:</u> The Court may wish to review the narrative provided by the doctor at #6E and #6F regarding the proposed conservatee's demeanor toward her sister.
DOB: 1-23-91			
Cont. from 091114			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg	Reviewed by: skc Reviewed on: 10-28-14 Updates: 10-29-14 Recommendation: File 22 – Le Chang	
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		

DOD: 11-6-13		SOURIYA PHOUTHAVONE , Son, is Petitioner and requests appointment as Administrator with Full IAEA without bond. Full IAEA – Need publication Decedent died intestate Residence: Fresno Publication: Need publication Estimated value of estate: \$0 Probate Referee: Rick Smith	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 9-29-14.</u> <u>Minute Order 9-29-14:</u> The Court recommends Petitioner to seek legal advice. Examiner Notes given. <u>As of 10-28-14, nothing further has been filed.</u> <u>The following issues remain:</u> <u>See Page 2</u>
Cont. from 092914			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg	x	
	Aff.Mail	x	
	Aff.Pub.	x	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc Reviewed on: 10-28-14 Updates: Recommendation: File 23 – Phouthavone

NEEDS/PROBLEMS/COMMENTS:

1. The petition is blank at #5.a.(3) and (4) and at #5.a.(7) and (8). Need verified declaration with this information. Was the decedent survived by a domestic partner or no domestic partner? Was the decedent survived by issue of a predeceased child or no issue of a predeceased child?
2. Petitioner lists one other relative at #8 – Chaytha Phouthavone – but does not state this relative's relationship to the decedent.

Note: It appears from is person's age that he or she is a sibling of the petitioner. However, Petitioner states at #5.a. that the decedent was survived by a spouse. Need verified declaration containing a complete list of relatives who should be listed per #8.

3. Need Notice of Petition to Administer Estate (Form DE-121) and proof of service of Notice on all relatives at least 15 days prior to the hearing per Probate Code §8110.
4. Need publication pursuant to Probate Code §8120 and Local Rule 7.9.
5. Petitioner estimates the value of the estate at \$0. The Court may require clarification.
6. This petition was filed with a fee waiver. If estate assets are distributed in the future, Petitioner should be aware that the original Court filing fee will be due at that time.

Note: Petitioner may wish to seek legal advice from an attorney as to probate is a necessary or appropriate procedure to handle the decedent's estate. There may be other procedures available to Petitioner depending on the reason for probate. Remember that a document service or paralegal cannot give legal advice. Petitioner is encouraged to research the procedures at the Fresno County Law Library or consult with an attorney to decide how to proceed.

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Delvin, 16 DOB: 04/20/98		<u>TEMPORAR EXPIRES 11/03/14</u>	NEEDS/PROBLEMS/COMMENTS:
Tatianna, 12 DOB: 02/21/02			
		JUNIOR MONEVILAY , brother, is Petitioner.	
		Father: TROY KEOPHOUNSOUK – <i>personally served on 09/02/14</i>	
Cont. from		Mother: JULIA MONTEVILAY – deceased	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Paternal grandfather: TOMMY KEOPHOUNSOUK – Served by mail on 09/08/14	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Paternal grandmother: LAE KEOPHOUNSOUK – Served by mail on 09/08/14	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Maternal grandparents: DECEASED	
<input checked="" type="checkbox"/>	Aff.Mail w/		
<input type="checkbox"/>	Aff.Pub.	Petitioner alleges that temporary guardianship is necessary because their mother recently died and their father has threatened to take the children to live with him. Petitioner alleges that their father has not cared for the minors while their mother was ill. Their parents separated in 2013. Petitioner alleges that his mother told him before her death that their father had a history of domestic violence and it is believed that he abuses meth. Petitioner states that their mother was the primary care provider for the children. Petitioner further states that the children have a strong desire to remain with him.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	Court Investigator Jennifer Daniel filed a report on 10/22/14. The report recommends that the petition be GRANTED.	
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: JF
			Reviewed on: 10/29/14
			Updates:
			Recommendation:
			File 24 – Monevilay

Age: 3 DOB: 07/11/11		<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:	
		JACK FERNANDEZ and LYDIA FERNANDEZ , maternal grandparents, are Petitioners.		1. Proof of service filed 10/09/14 indicates that Austin Marks (father) was served by mail at Wasco State Prison per the instructions of prison officials. The Court may require personal service as required pursuant to Probate Code § 1511.	
		Father: AUSTIN MARKS , currently incarcerated, served by mail on 09/09/14		2. Declaration of Due Diligence filed 10/09/14 states that the paternal grandfather's whereabouts are unknown and he has not been seen or heard from for 22 years. If diligence is not found, need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of Person <u>or</u> Consent & Waiver of Notice for Mario Dillanes.	
Cont. from		Mother: EMILY ROSE FERNANDEZ – personally served on 10/08/14			
	Aff.Sub.Wit.	Paternal grandfather: MARIO DILLANES – Declaration of Due Diligence filed 10/09/14			
✓	Verified	Paternal grandmother: MONICA MARKS-REA – Consent & Waiver of Notice filed 10/09/14			
	Inventory	Petitioners state that they have been Joseph's unofficial guardians since birth. They now need legal guardianship to take care of his medical needs and enroll him in school. His mother is using drugs and alcohol and neglects his health and dental care. The mother has also stated that she will not allow him to go to school, and has stated that she will home school him, which Petitioners believe will not happen.			
	PTC	Petitioner further state that Joseph's father has never contributed to his support or well-being.			
	Not.Cred.	Court Investigator Samantha Henson filed a report on 10/24/14. The report states that petitioners appear to have been the primary caregivers to the minor since his birth and have been providing him with a safe and stable environment. The mother has reportedly not immunized the minor or allowed him to have medical care when necessary. It appears it would be detrimental for the minor to be in his mother's care at this time. It is therefore recommended that the petition be GRANTED . Further, given that law enforcement has had to be called to the home due to mother's behavior, and that the mother may be abusing drugs, it is recommended that the mother not be allowed to live in the home.			
✓	Notice of Hrg				
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report			Reviewed by: JF	
	9202			Reviewed on: 10/30/14	
✓	Order			Updates:	
	Aff. Posting			Recommendation:	
	Status Rpt			File 25 – Fernandez	
✓	UCCJEA				
	Citation				
	FTB Notice				

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 7-26-14		SANTIAGO LOPEZ, JR., is Petitioner. (Relationship not stated)	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD	1. Need amended petition based on the following. See also Probate Code §13152:
		No other proceedings	- Petition is blank at #7 (proceedings in other jurisdiction)
<input type="checkbox"/>	Aff.Sub.Wit.		- Inventory and Appraisal is blank. Need I&A. See #8 of the petition and I&A Form DE-160. Petitioner should contact the Probate Referee for appraisal of the real property.
<input checked="" type="checkbox"/>	Verified		- Attachment 11 does not state the decedent's interest in the real property.
<input type="checkbox"/>	Inventory	x	- #13 does not state the interest claimed by Petitioner in the real property.
<input type="checkbox"/>	PTC		- Petitioner's identity and relationship to the decedent is unclear. His name according to the petition is Santiago Lopez, Jr.; however, Attachment 14 lists 11 children of the decedent, including Santiago Lopez (without "Jr."). Is the Santiago Lopez listed in Attachment 14 the same person as Petitioner Santiago Lopez, Jr.?
<input type="checkbox"/>	Not.Cred.		- If so, it is unclear why Petitioner claims that the real property should pass to him only, since all siblings have an equal priority to succeed to the property. If the property will pass to all of them together, they must all petition the Court together pursuant to Probate Code §13151. See also Probate Code §6400 for intestate succession in general.
<input checked="" type="checkbox"/>	Notice of Hrg		- Need proposed order pursuant to Local Rule. 7.1.1.F.
<input checked="" type="checkbox"/>	Aff.Mail	w/o	Reviewed by: skc
<input type="checkbox"/>	Aff.Pub.		Reviewed on: 10-29-14
<input type="checkbox"/>	Sp.Ntc.		Updates:
<input type="checkbox"/>	Pers.Serv.		Recommendation:
<input type="checkbox"/>	Conf. Screen		File 26 – Lopez
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	x	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 1821, 2680-2682)

Age: 17		NO TEMP WAS REQUESTED	NEEDS/PROBLEMS/COMMENTS:
DOB: 11-11-96			
		DIANA and ROBERT CHAPMAN , Parents, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers under Probate Code §2355.	Court Investigator advised rights on 10-9-14
		Voting rights affected	Voting rights affected - Need Minute order
<input type="checkbox"/>	Aff.Sub.Wit.	A Capacity Declaration was filed 9-29-14. Capacity Declaration of Peter Nakaguchi, MD, dated 9-19-14 supports the request for medical consent powers.	1. Need video receipt pursuant to Local Rule 7.15.8.A. The video and proof of viewing certificate are available online at the Fresno Superior Court website (click on Probate, then Conservatorship), or the video can be viewed at the Probate Clerk's office.
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Petitioners state the proposed Conservatee is diagnosed with severe developmental delay and mental retardation. She suffered a stroke in utero and her official diagnosis is microcephaly, hemiplegia, seizure disorder, global developmental delay, and gerd. She is nonverbal, requires a feeding tube, is wheelchair bond, and is legally blind. She requires 24 hour care and supervision and has resided in a residential care facility since she was about a year old. She will continue to reside there after the conservatorship is granted. The proposed Conservatee graduated from the Rata Special Needs Program in June of this year and now attends Rainmaker Adult Education Center.	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	Court Investigator Jennifer Daniel filed a report on 10-27-14. The report states Haley is a client of CVRC and according to her Individual Program Plan (IPP) is a "happy girl" who can become loud when excited. She is in good general health, but is unable to live independently. Petitioners have been married for 25 years and have two other children. It is recommended that the petition be GRANTED effective when Haley turns 18 on 11-11-14.	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input checked="" type="checkbox"/>	Pers.Serv.		
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	X	
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input checked="" type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: skc
			Reviewed on: 10-29-14
			Updates:
			Recommendation:
			File 27 – Chapman

Julio, age 8 DOB: 5-23-06	GENERAL HEARING 1-5-15 JAVIER and ELVIA RODRIGUEZ , Maternal Grandparents, are Petitioners. Father: JULIO CESAR NOVOA Mother: ELVIA ELVIRA RODRIGUEZ - Deceased Paternal Grandfather: Not listed Paternal Grandmother: Not listed Petitioners state the children's mother died in 2008 and their father is currently residing in Mexico. The father is aware that he is not currently able to provide for the children. The children are currently living with Petitioners and Petitioners are able to provide for all of their needs and the children are happy and secure in their home. Petitioners state temporary guardianship is needed for school and other programs that they are involved in related to their benefit. Petitioners request that the Court excuse notice to the father because he is residing in Mexico.	NEEDS/PROBLEMS/COMMENTS: 1. If notice to the father is not excused, need personal service of Notice of Hearing with a copy of the temporary guardianship petition at least five court days prior to the hearing <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Julio Cesar Novoa (Father) 2. The paternal grandparents are not listed. Information regarding the paternal grandparents will be required for the general hearing on 1-5-15, and service will be required pursuant to Probate Code §1511, <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence. <u>Note to Judge:</u> The Confidential Probate Court Guardianship Questionnaire states the children were left with Petitioners in March 2014 by the father. "Father just left children at my home and left to Mexico and is nowhere to be found." The questionnaire also states Julio (8) has vision problems and Petitioner already got them Medi-Cal and took him to get glasses. <u>Note to Judge:</u> If granted, please insert the expiration date at #9 of the order.	
Carlos, age 9 DOB: 1-11-05			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			x
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			x
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
Clearances			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
Reviewed by: skc Reviewed on: 10-29-14 Updates: Recommendation: File 28 – Novia-Rodriguez			

Stephanie, age 15 DOB: 12-21-98	TEMP GRANTED EX PARTE EXPIRES 11-3-14 GENERAL HEARING 1-5-15 JESSE (JESUS) GONZALEZ , Maternal Grandfather, and JODI SCHROEDER , fiancée of Maternal Grandfather, are Petitioners. Father (Stephanie): UNKNOWN Father (Robert, Emmanuel, Noah, Isaiah, and Ezekiel): ROBERT RIPOYLA Mother: STEPHANIE RIPOYLA (Deceased) Paternal Grandparents (Stephanie): Unknown Paternal Grandfather (Robert, Emmanuel, Noah, Isaiah, and Ezekiel): Not listed Paternal Grandmother (Robert, Emmanuel, Noah, Isaiah, and Ezekiel): Irma Cisneros Maternal Grandmother: Andrea A. Davalos Petitioners state the mother died in a car accident on 10-4-14. The father of five of the children was abusive in the home and was accused of sexually abusing the oldest child. Prior to the mother's death, the children were living with the mother in a motel. They were unable to attend school regularly. Petitioners need to be able to communicate with the schools to ensure the children get back on track with attendance and receive the tutoring help they need to get caught up. Petitioners request the Court excuse notice to Robert Ripoyla, father of five of the children, because his address is unknown and he is violent, gang-affiliated, and being investigated for sexual abuse of one of the minors. At this time, he is believed to be a threat of abducting the children. He has contacted the children via Facebook and threatened he is "coming to get them." Petitioners state they do not want to have contact with him. Points and authorities are provided re: good cause exists to dispense with notice to Mr. Ripoyla The mother was involved in divorce proceedings against him and had a domestic violence restraining order to protect her and the children from his abuse. According to the UCCJEA, the children have been with Petitioners since 10-5-14. Prior to that, they were with their mother in Fresno.	NEEDS/PROBLEMS/COMMENTS:
Robert, age 14 DOB: 10-12-00		1. Need Notice of Hearing.
Emmanuel, age 12 DOB: 10-30-02		2. Need proof of personal service of Notice of Hearing with a copy of the temporary guardianship petition at least five court days prior to the hearing pursuant to Probate Code §2250(e) or consent and waiver of notice or declaration of due diligence on:
Noah, age 10 DOB: 5-26-04		- Unknown father of Stephanie Gonzalez
Isaiah, age 8 DOB: 5-16-06		- Minors age 12 and older: Stephanie Gonzalez, Robert C. Ripoyla, Jr., and Emmanuel M. Ripoyla
Ezekiel, age 8 DOB: 10-26-06		3. If notice to Robert Ripoyla (father of five youngest minors) is not excused, need personal service of Notice of Hearing with a copy of the temporary guardianship petition at least five court days prior to the hearing or consent and waiver of notice or declaration of due diligence on:
Aff.Sub.Wit.		- Robert Ripoyla (Father)
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
✓ Conf. Screen		
Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		

Page 2

Additional Notes to Judge:

- Petitioners provide an address for the father in Merced on the Child Information Attachments.
- Because it was stated that the mother obtained a Domestic Violence Restraining Order to protect herself and the children from Robert Ripoyla, Examiner reviewed Court records (Banner) and the CCPOR database (California Courts Protective Order Registry) to determine if there is a protective order currently in effect regarding the children.

The results did not indicate any protective orders for this mother or these children; however, the search yielded an Emergency Protective Order issued in Merced in July 2014 (expired 7-11-14) indicating allegations of sexual abuse regarding a different minor child of Robert Ripoyla that is not subject to this petition (different mother?) that appear very similar to the allegations stated in this petition.

- Due to the nature of the allegations in the petition, some of the information in the summary above was removed from the version posted online.
- Family Law Dissolution Case 11CEFL04357 was active as of June, 2014 and a "family-centered case resolution conference" was set for 2-18-15; however, as the mother has now passed away, it does not appear that Local Rule 7.15.7 would apply.
- The birth dates of Isaiah and Ezekiel are only five months apart. The Court may wish to confirm if the birth dates provided are correct.
- The petition indicates an address in Fresno for Petitioners and the children; however, the Request to Waive Court Fees for Petitioner Jodi Schroeder indicates an address in Pacifica, CA.
- Because temporary guardianship was originally granted ex parte, there is no order in the file to sign, if granted. Letters may be extended by minute order.

Additional Note to Judge Re Fee Waiver:

Petitioners Jesse Gonzalez and Jodi Schroeder were granted fee waivers by the Court. However, it appears that certain income information was not included in the total income used for review. The Court may wish to re-review the petitioners' fee waiver requests and set the matters for reconsideration hearings, if appropriate.

Specifically, Petitioner Jodi Schroeder's gross monthly income actually totals \$9,991, less \$165 in deductions, not \$3,158, as is stated at Line 8e (total). Note: The address on the fee waiver request indicates that Ms. Schroeder does not reside in the household with the grandfather and the children.

Examiner has prepared a Notice to Appear for Reconsideration Hearing FW-011 for each petitioner, setting the matters for 1-5-15, which is the date of the general guardianship hearing. If the Court wishes to set the fee waiver requests for reconsideration, please sign the orders where indicated. The Probate Clerk's Office will mail notice to the petitioners.